

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

MOTION TO FILE DECLARATION OF JESSICA POLANSKY UNDER SEAL

Plaintiffs respectfully move this Court pursuant to Local Uniform Civil Rule 79 to place the Declaration of Jessica Polansky and Exhibits 1 through 17 attached thereto UNDER SEAL. Exhibits 1 through 17 reveal confidential, individually-identifying information about members or former members of the Plaintiff class, their families, and persons included in their case files of the type covered by this Court's Confidentiality Order dated August 5, 2004, a copy of which is attached hereto as Exhibit A. Plaintiffs' Motion for Contempt and for the Appointment of a Receiver was filed today without the Declaration of Jessica Polansky or the above-listed exhibits, which will be filed under seal in the event that this Court grants this motion.

Paragraph 2 of the Confidentiality Order states:

Any individually-identifying information . . . regarding any plaintiff child, such child's family members, foster family members, and persons included in any case files as the source of information concerning the child – including but not limited to these persons' names, addresses, telephone numbers, social security numbers, dates of birth, and other individual information likely to enable a reasonable member of the general public to ascertain their identities – is hereby designated to be confidential.

The above-listed exhibits are DFCS records that reveal individually-identifying information concerning minor Plaintiffs, as well as their biological and foster parents. Such confidential information is protected by ¶ 2 of the Court's Confidentiality Order.

Accordingly, Plaintiffs request that the Court place the Declaration of Jessica Polansky and Exhibits 1-17 under seal. A proposed order is attached.

Respectfully submitted, this 5th day of October, 2010.

/s/ Shirim Nothenberg
Marcia Robinson Lowry (MBN 43991 *pro hac vice*)
Shirim Nothenberg (MBN 43990 *pro hac vice*)
Jessica Polansky (MBN 45356 *pro hac vice*)
CHILDREN'S RIGHTS
330 7th Avenue, 4th floor
New York, New York 10001
Telephone: (212) 683-2210
E mail: mlowry@childrensrights.org

W. Wayne Drinkwater, Jr. (MBN 6193)
BRADLEY ARANT BOULT CUMMINGS LLP
One Jackson Place, Suite 400
188 East Capitol Street
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
E mail: wdrinkwater@babco.com

John Lang (MBN 43987 *pro hac vice*)
Attorney at Law
60 East 42nd Street
Suite 4600
New York, NY 10165
Telephone: (212) 300-0646
E mail: john.lang@attorneylang.com

Christian Carbone (MBN 43986 *pro hac vice*)
John Piskora (MBN 44474 *pro hac vice*)
LOEB & LOEB LLP

345 Park Ave.
New York, New York 10154
Telephone: (212) 407-4000
E mail: ccarbone@loeb.com

Plaintiffs' Counsel

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2010, I electronically filed the foregoing Motion to File Declaration of Jessica Polansky Under Seal with the Court using the ECF system, which sent notification of such filing to the following:

Dewitt L. ("Rusty") Fortenberry Jr., Esq.
Kenya Key Rachal, Esq.
Gretchen L. Zmitrovich, Esq.
Ashley Tullos Young, Esq.
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC
428 I-55 North
Meadowbrook Office Park
Jackson, MS 39211
(601) 351-2400

Harold E. Pizzetta, III, Esq.
Assistant Attorney General
General Civil Division
Carroll Gartin Justice Building
430 High Street
Jackson, Mississippi 39201

Attorneys for Defendants Haley Barbour, et al.

/s/ Shirim Nothenberg